APHC010108832018

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

MONDAY, THE 12th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 366/2018

Between:

1. UNITED INDIA INSURANCE CO. LTD, REGIONAL OFFICE, TP HUB, HYDERABAD REP BY ITS MANAGER, FOR ONGOLE BRANCH

...APPELLANT

AND

1. TATIKONDA /TADIKONDA SYAMALA DEVI, W/O. LATE SANKARA RAO, 46 YRS., R/O. H.NO.8-60-1, VALAPRIA VILLAGE, MARTUR MANDAL, PRAKASAM DISTRICT
2. PINAPA NEELIMA, W/O. VIDYA SAGAR, 33 YRS., R/O. PLOT NO.204, SRI SATYA RESIDENCY, ROAD NO.25, DEEPTI SRI NAGAR COLONY, MADINAGUDA, HYDERABAD
3. PINAPA NEERAJA, W/O. KALYAN BABU, 32 YRS., R/O. H.NO.98, MATRUSRI NILAYAM, H.RAMANAIAH REDDY LAYOUT, POLICE STATION BACK SIDE, RAMA MARUTHI NANAGE, BANGALORE - 560 016.
4. BHUKYA NAGARAJU, S/O. MATHRI NAYAK, 21 YRS., R/O. MARTUR VILLAGE AND MANDAL, PRAKASAM DISTRICT. DRIVER OF TRACTOR AND TRAILER BARING NO AP 27 W 9608 AND 9607
5. PALLAPU BALA RAJU DIED, OWNER OF TRACTOR AND TRAILER BARING NO AP 27 W 9608 AND 9607
6. PALLAPU UNKUL, S/O. BRAHMAIAH, 60 YRS., R/O. SAMPATH NAGAR, MARTUR VILLAGE AND MANDAL, PRAKASAM DISTRICT. (6TH RESPONDENT IS ADDED AS L.R. OF DECEASED 5TH RESPONDENTS AS PER ORDERS IN IA NO.1004/2015, DT.06-10-

2015)

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Courtto present this Memorandum of Civil Miscellaneous Appeal aggrieved by die order dt,10-05-2017 in M.V.O.E.No.236 of 2013 on the file of the Motor Accident Claims Tribunal, (Principal District Court), Prakasam at Ongole for the following

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 163 days in filing the appeal and pass

IA NO: 2 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings against the judgment in M.V.O.P No.236 of 2013 on the file of the Motor Accident Claims tribunal, (Principal District Court), Prakasam at Ongole and pass

Counsel for the Appellant:

1. B NAGA SAILAKSHMI

Counsel for the Respondent(S):

1. MADHAVA RAO NALLURI

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 366 OF 2018

JUDGMENT:

Assailing the order and decree dated 10.05.2017 in M.V.O.P. No.236 of 2013 passed by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Ongole, respondent No.3/Insurance Company has preferred the instant appeal, challenging the award of compensation of Rs.4,66,000/- for the untimely death of Tatikonda @ Tadikonda Sankara Rao.

2. For the sake of convenience and clarity, the parties are referred to as the 'petitioners' and 'respondents', as arrayed before the Tribunal.

3. The case of the petitioners is as follows:

(a) On 02.07.2011, at about 11.00 a.m., the deceased left his house at Valaparla Village, Martur Mandal, on his Honda CB Unicorn motorcycle bearing No. AP 27 AH 9313 to go to Chilakaluripet for personal work. After completing his work, while he was proceeding towards Valaparla Village and had reached Isuka Darsi Bus Stand Centre at about 3.15 p.m., a tractor and trailer bearing Nos. AP 27 W 9608 and 9607 came in a rash and negligent manner and dashed against his motorcycle. As a result, the deceased fell on the road, and the right rear tyre of the tractor dragged him for some distance and ran over his head, causing his death on the spot. The deceased was about 52 years old, worked as a Registered Medical Practitioner, and earned Rs.10,000/- per month. The petitioners are his legal representatives. Due to the sudden demise of her husband, petitioner No.1 lost financial support, and the petitioners suffered the loss of his love and affection. Respondent No.1 is the driver of the offending vehicle; respondent No.2 is stated to be the owner of the tractor and trailer bearing Nos. AP 27 W 9608 and 9607; respondent No.3 is the insurer; and respondent No.4 is the son/legal representative of respondent No.2. The accident occurred due to the rash and negligent driving

of the driver of the tractor and trailer. Accordingly, Crime No.69 of 2011 was registered against the driver for the offence under Section 304-A of the Indian Penal Code (hereinafter referred to as 'the Code'). The respondents are jointly and severally liable to pay compensation.

(b) Respondent No.3 filed a counter denying the averments made in the petition and contending, inter alia, that the accident occurred due to the rash and negligent riding of the deceased; that the driver of the tractor and trailer was not negligent; that the petition was bad for non-joinder of necessary parties, as respondent No.2, the alleged owner of the offending vehicle, had died on 28.01.2009 and, therefore, the petition against him was liable to be dismissed; and that the petitioners had claimed excessive compensation. On these and other formal grounds, respondent No.3 prayed for dismissal of the petition.

4. Respondent No.4 also filed a counter denying the averments made in the petition. He contended that the accident occurred due to the rash and negligent riding of the motorcycle by the deceased and that the driver of the tractor and trailer was not negligent. He further contended that the driver held a valid driving licence and that the insurance policy issued by respondent No.3 was in force on the date of the accident. On these and other formal grounds, he prayed for dismissal of the petition.

5. Having considered the pleadings, the learned Tribunal framed the following issues:

> 1) Whether the death of the deceased Tatikonda Sankara Rao had occurred due to the injuries received in the accident caused by the rash and negligent driving of the Tractor and Trailer bearing No.AP 27 W 9608 and 9607 by its driver-Respondent No.1, if so whether there was any contributory negligence on the part of the deceased who was riding the motor cycle bearing No.AP 27 AH 9313, as alleged by the respondents in their written statements?

2) Whether the petitioners are entitled for any compensation, if so, to what amount and against whom?
3) To what relief?

6. During the trial, petitioner No.1 examined herself as PW.1 and examined the eyewitness to the accident as PW.2. The petitioners marked Exs.A1 to A4 and X1 and X2. In rebuttal, the respondents examined RW.1 and RW.2 and marked Exs.B1 to B5. At the conclusion of the trial, the learned Tribunal awarded compensation of Rs.4,66,000/- with interest at 7.5% per annum. Aggrieved by the said order and decree, respondent No.3 preferred the instant appeal on the following grounds:

i. The order and decree of the learned Tribunal is contrary to law, weight of evidence and probabilities of the case.
ii. The learned Tribunal failed to appreciate the contention of the respondent No.3 that the claim is not maintainable as there is no pleading and proof that the respondent No.4, who is the son of respondent No.2 is enjoying the estate of respondent No.2 is liable to pay compensation.
iii. The learned Tribunal failed to see that there was no negligence on the part of the driver of Tractor and Trailer and that the accident occurred due to rash and negligent riding of the deceased.
iv. The learned Tribunal ought to have seen that the deceased had no driving license and not appreciated the evidence in the proper perspective.
v. The learned Tribunal ought to have held that there was contributory negligence on the part of the deceased.
vi. The learned Tribunal failed to see that the petition is bad for non-joinder of necessary parties.

vii. The learned Tribunal ought to have seen that there is no documentary evidence to show the income of the deceased, and with other formal grounds, prayed to allow the appeal.

7. Heard both sides.

8. Upon hearing both sides and perusing the material available on record, the following points arise for consideration:

(1) Whether the accident dated 02.07.2011 occurred due to the rash and negligent driving of the respondent No.1?

(2) Whether the petitioners are entitled for compensation? If so, to what amount?

(3) Whether the Order and decree dated 10.05.2017 passed in M.V.O.P.No.236 of 2013 by the Chairman, Motor Accident Claims Tribunal-cum-Principal District Judge, Ongole, are sustainable in facts and law?

(4) To what relief?

9. Admittedly, the petitioners have not filed an appeal or cross-objections challenging the quantum of compensation. However, as the first appellate court and the final court of fact, this Court is required to re-examine and reappreciate the oral and documentary evidence on record.

10. Point No.1:

(a) The factum of the accident and the death of Tatikonda @ Tadikonda Sankara Rao are not in dispute. To establish the manner in which the accident occurred, the petitioners relied on the evidence of PWs.1 and 2. PW.1 is the wife of the deceased and is not an eyewitness. The only eyewitness examined to establish the manner of the accident is PW.2. He testified that on 02.07.2011, while the deceased proceeding towards Valaparla Village on his motorcycle bearing No. AP 27 AH 9313 and when he reached Isuka Darsi Bus Stand Centre at about 3.15 p.m., a tractor and trailer bearing Nos. AP 27 W

9608 and 9607 came in a rash and negligent manner and dashed against the motorcycle, the deceased fell on the road, and the tractor and trailer ran over his head, causing his death on the spot. PW.2 further stated that the accident occurred due to the rash and negligent driving of the tractor and trailer and that the deceased was not at fault. Nothing useful material is elicited in the cross-examination of PWs.1 and 2 to discredit their evidence. Crime No.69 of 2011 was registered against the driver of the tractor and trailer for the offence under Section 304-A of the Code.

(b) Respondent No.3 examined RW.1/Administrative officer of United India Insurance Company Limited, Ongole and he testified that the accident occurred solely due to the negligence of the deceased and that the deceased died in an accident that occurred on 02.07.2009. In his cross-examination, RW.1 admitted that the police, after investigation, filed a charge sheet against the driver of the tractor and trailer, they have not taken any steps challenging the investigation done by the investigating officer and that he had no personal knowledge of the accident.

(c) Further, as seen from Ex.A1/First Information Report and Ex.A4/Charge sheet, crime is registered of the offence stated *supra* and after completion of investigation, police laid charge sheet alleging that the accident occurred only due to the rash and negligent driving of driver of the tractor & trailer bearing No.AP 27 W 9608 and 9607. So, the evidence of PWs.1 and 2 coupled with Exs.A1 and A4 clinchingly proves that the accident occurred due to the rash and negligent driving of driver of the tractor & trailer bearing No.AP 27 W 9608 and 9607. It is evident from Ex.A2/inquest report and A3/Postmortem report, deceased succumbed to the injuries sustained in the accident. Accordingly, Point No.1 is answered in favour of the petitioners and against the respondents, holding that the accident occurred due to the rash and negligent driving of the driver of the tractor and trailer bearing Nos. AP 27 W 9608 and 9607.

11. Point No.2:

(a) According to the petitioners, the deceased hale and healthy, aged about 52 years, worked as a Registered Medical Practitioner, and earned Rs.10,000/- per month. The petitioners are his legal representatives. Due to the sudden demise of her husband, petitioner No.1 lost financial support, and all the petitioners suffered the loss of his love and affection. The learned Tribunal, after considering Ex.A2/inquest report, determined the age of the deceased as 52 years. The age recorded in Ex.A2 supports that finding, and there is no contrary evidence. Therefore, it can safely be concluded that the deceased aged about 52 years as on the date of accident. The petitioners, being his wife and children are entitled to compensation.

(b) As regards the income of the deceased, no documentary evidence is produced and having considered the material on record, the learned Tribunal rightly assessed the notional monthly income of the deceased at Rs.4,500/-.

(c) The petitioners have not filed any appeal for enhancement of compensation, however, learned counsel for the petitioners would argue that though they have not filed any appeal or cross objections seeking enhancement of compensation, just and fair compensation may be awarded. Learned counsel for the respondents argued that the accident occurred in the year 2011 and as such, the present principles of law shall not be applied to the facts of the case at hand. It is settled principle of law that the petitioners are entitled for just and fair compensation and further, in exercise of the appellate powers under Order 41 Rule 33, this court can enhance the amount of compensation even in the absence of appeal or cross objections. In this regard, it is to be noted that in ***Sharanamma & Others v. Divisional Controller, North-East Karnataka Road Transport Corporation***[1]***,*** Hon'ble Apex Court held thus:

[1]2013 (11) SCC 517

> "10. When an appeal is filed under Section 173 of the Motor Vehicles Act, 1988, before the High Court, the normal rules which apply to appeals before the High Court, are applicable to such an appeal also. Even otherwise, it is well settled position of law that when an appeal is provided for, the whole case is open before the appellate court and by necessary implication, it can exercise all powers incidental thereto in order to exercise that power effectively. A bare reading of Section 173 of the Act also reflects that there is no curtailment or limitations on the powers of the appellate court to consider the entire case on facts and law".

(d) Further, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others*** [2] , having considered the aforementioned principle, Division Bench of this Court has held that to the appeal under Section 173 of the M.V. Act to the High Court, in the absence of a different procedure having been provided, either under the M.V. Act or the A.P.M.V. Rules, 1989, and the applicability of Order 41 C.P.C also not having been excluded, the normal rules which apply to appeals before the High Court, are applicable and further held that for doing justice and to award just compensation, the provisions of Order 41 Rule 33 are to be invoked.

(e) And, in ***Surekha v. Santhosh***[3], having agreed with the stand of the claimants that just compensation amount ought to be awarded, High Court of Judicature at Bombay declined to grant enhancement merely on the ground that the claimants failed to file cross appeal and in such circumstances, Hon'ble Apex Court held that it is well settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants. So, in the absence of any appeal or cross objections in respect of quantum of compensation, this Court is under obligation to award just and fair compensation.

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[2] 2023 SCC Online AP 1725
[3] (2021) 16 SCC 467

(f) While determining compensation, the principles laid down by the Hon'ble Supreme Court in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[4], ***National Insurance Company Ltd Vs. Pranay Sethi and others***[5], and ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[6] must be considered. The accident occurred on 02.07.2011. Respondent No.3 filed the appeal with a delay, and the appeal was registered in 2018. As regards the applicability of subsequent decisions to the present case, in ***Government of India and another v. Sri Devaraj Medical College***[7], it was held that, unless a decision of the Hon'ble Supreme Court expressly provides for prospective application, the law declared therein applies retrospectively.

(g) Applying the above principles, this Court assesses the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Annual income (Rs.4,500 × 12)	Rs.	54,000/-
2.	Deduction towards personal expenses (54,000 × 1/3)	Rs.	18,000/-
3.	Total income (54,000 − 18,000)	Rs.	36,000/-
4.	Future prospects (10% of 36,000)	Rs.	3,600/-
5.	Total loss of dependency (36,000 + 3,600) × 11	Rs.	4,25,600/-
6.	Loss of consortium (40,000 × 3) (spousal+parental)	Rs.	1,20,000/-
7.	Funeral expenses	Rs.	15,000/-
8.	Transportation expenses	Rs.	10,000/-
9.	Loss of estate	Rs.	15,000/-
	Total	Rs.	**5,85,600/-**

[4] (2009) ACJ 1298
[5] (2017) 6 SCC 680
[6](2018) 18 SCC 130
[7]2026 Livelaw SC 766

(h) In the facts and circumstances of the case, the petitioners are entitled to compensation of Rs.5,85,600/-. In the considered view of this Court, the compensation so determined is just, adequate and reasonable, having regard to the loss suffered by the dependants of the deceased.

(i) As regards liability, this Court has already held under Point No.1 that the accident occurred due to the rash and negligent driving of the driver of the tractor and trailer bearing Nos.AP 27 W 9608 and 9607. Accordingly, respondent No.1, as the driver, is vicariously liable to pay compensation. The findings in this paragraph concerning the liability of respondent Nos.1, 3 and 4 require consistency with the operative order. Hence, this point is answered accordingly.

12**. Point No.3:**

Upon reappraisal of the evidence on record and for the reasons stated above, this Court concludes that the learned Tribunal erred in determining just and fair compensation. The award is therefore liable to be modified. Point No.3 is answered accordingly.

13. **Point No.4:**

(i) ***In the result***, in view of the findings on Points Nos.1 to 3, the appeal is dismissed, while modifying the order of the learned Tribunal by enhancing the compensation from Rs.4,66,000/- (Rupees Four Lakh Sixty-Six Thousand only) to Rs.5,85,600/- (Rupees Five Lakh Eighty-Five Thousand Six Hundred only), together with simple interest at 7.5% per annum from the date of the petition until realisation. The amount shall be recoverable by the petitioners from respondent Nos.1, 3 and 4.

(ii) Out of the total compensation, Rs.2,92,800/- (Rupees Two Lakh Ninety-Two Thousand Eight Hundred only) is awarded to petitioner No.1, and Rs.1,46,400/- (Rupees One Lakh Forty-Six Thousand Four Hundred only)

each is awarded to petitioners Nos.2 and 3. The compensation shall be apportioned accordingly.

(iii) The compensation amount, together with interest, after deducting any amount already deposited, shall be deposited within one (1) month from the date on which the learned Tribunal receives a copy of this judgment.

(iv) Upon such deposit, the petitioners are permitted to withdraw the compensation awarded to them, together with the accrued interest, after deducting any amount already paid.

(vi) There shall be no order as to costs.

As a sequel, any pending miscellaneous petitions shall stand closed.

SUNITHA GANDHAM, J

Dt:12.10.2026

Vns